

CM/ECF

FOR CONTRACT COURT REPORTERS

December, 2009

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Special Restricted Access to Transcripts

Our Administrative Office in Washington, DC, in accordance with Judicial Conference Policy, has implemented changes to address the new policy on the availability of transcripts of court proceedings. According to the new policy, transcripts of court proceedings should be made available to the general public for inspection only at the clerk's office for a period of 90 days after delivery to the clerk. During that 90 day period, a copy of the transcript may be purchased from the court reporter or transcriber at the rate established by the Judicial Conference. In addition, attorneys who have purchased the transcript or a copy thereof should be provided remote electronic access to the transcript in CM/ECF to create hyperlinks in court filings and for other purposes. After the 90 day period, transcripts will be available to the public for copying/printing in the clerk's office and through PACER.

The court's CM/ECF system will allow you to electronically file your transcripts. To log into CM/ECF, go to the court's web page: www.sdd.uscourts.gov and click on the link to CM/ECF. As you can see, we have a live database, which you will use to e-file your transcripts and related events, and we have a training database which will allow you to practice filing transcript events. Your login and password for both databases is the same and will be given to you at the time you are trained.

1. Transcript Events

In our district, transcripts will be filed electronically by the court reporters/transcribers using special docket events. These events will add a *special document restriction level* and will specify groups that should be allowed to view transcripts after they are filed. **(Specific instructions on e-filing these events are given in section 6).** The events are:

- Transcript
- Transcript - Redacted
- Notice of Filing of Official Transcript
- Notice of Release of Transcript Restriction

2. Transcript Deadlines

When a transcript is filed, three deadlines are set:

- Redaction Request Deadline which is set for 21 days after the filing of the original transcript
- Redacted Transcript Deadline which is set for 31 days after the filing of the original transcript
- Release Transcript Restriction Deadline which is set for 90 calendar days after the filing of the original transcript

These deadlines will be monitored by the Clerk's Office staff and will be removed when the deadline date has passed.

3. Transcript Policy Summary

3.1 Rules and Regulations:

- At filing, the transcript will be available at the Clerk's Office for inspection for only 90 days
- During the 90 days, the transcript can be obtained from the court reporter or transcriber
- During the 90 days, the transcript is available to:
 - 1) court staff
 - 2) public terminal users
 - 3) attorneys of record or parties who have purchased the transcript from the reporter and other persons as directed by the court, e.g., appellate attorneys
- During the 90 days, the transcript will include a header "Available at the public terminal for viewing only" alerting court staff that they may not copy or print the transcript for a requester during the 90 day restriction period.
- During the 90 days, the *official court reporter* (a "court user") will be able to grant access to the transcript to those parties and/or attorneys that have paid for the transcript. If the transcript was filed by a *contract reporter*, the reporter will be required to docket the event Notice of Release of Transcript Restriction which will give email and docket notification to the Clerk's Office of the name of the attorney to whom access to the transcript can be granted and the court staff will then make the change.
- After the 90 days, the transcript will be available for inspection or copying in the clerk's office and for download through CM/ECF.
- PACER fees apply at all times when accessing the transcript remotely. There is no page limit/cost cap.
- Court Reporters will be required to provide the attorney with the transcript. If the attorney accesses the transcript through PACER, he/she will be charged the standard .08 per page, even if he/she has already paid the court reporter for the transcript.

3.2 Accessing the Transcript:

- If someone clicks on the document hyperlink to a transcript and they don't have access, they see the following message:

You do not have access to this transcript

They also see the text of the docket entry for the transcript event, which will read similar to the following:

TRANSCRIPT of Proceedings re 13 Evidentiary Hearing held on MM/DD/YY before Judge _____. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 03/23/2008. Redacted Transcript Deadline set for 04/02/2008. Release of Transcript Restriction set for 05/31/2008.

- If a redacted transcript is filed, the original transcript will continue to be restricted and will contain this header: "Available at the public terminal for viewing only". This header will remain even after the 90 days has expired.
- If an attorney purchases the unredacted transcript, and subsequently a redacted transcript is filed, the CM/ECF software will automatically apply the access restrictions of the unredacted transcript onto the redacted transcript and the attorney will then have access to both transcripts.
- If an attorney purchases the redacted transcript, he does not automatically acquire access rights to the unredacted version.
- Both the unredacted and redacted transcripts will be available at the public access terminal, for viewing only, but only the redacted version will be available for remote access via PACER at the end of the restriction period (90 days unless otherwise modified).
- If an appellate case attorney wants remote access to a transcript within the 90-day restriction period, the attorney is required to purchase the transcript from the court reporter, who will inform the court that this transaction as occurred.
- The district court will need to create a CM/ECF account for the appellate attorney and also use the Document Access Panel to enable remote access to the transcript.

3.3 Transcripts filed in SEALED cases:

- The new transcript policy does NOT apply to sealed transcripts. In Juvenile criminal cases, the entire case is sealed, and will remain sealed, so no transcript redaction will be necessary. In addition, no deadlines are created and no padlock icons will appear on the docket report. The official court reporter will still be required to e-file the transcript. Contract reporters will be required to produce the transcript in PDF (.pdf) format for delivery to the Clerk's Office for filing.

3.4 Purchase of the Transcript by the Media:

- Members of the public, including the news media, who purchase a transcript from the court reporter within the 90-day restriction period, will not be granted remote electronic access during the restriction period. At the end of the restriction period, the public will be provided remote electronic access to the redacted transcript, or, if no redaction was done, to the transcript originally submitted, unless it is under seal.

3.5 Certification of Transcripts:

- Court reporters with a login and password to CM/ECF for filing transcripts may use the standard CM/ECF signature block with the /s and typed name to represent their signature as part of the statement that certifies that the transcript is true and correct.

3.6 Miscellaneous Issues:

- If only part of the transcript is ordered, an attorney is not responsible for ordering and reviewing other parts of the proceedings.
- Court reporters/transcribers are not responsible for the identification of the need for or redaction of transcripts. Redaction will be accomplished only with input from the attorneys who represent the parties in the case. Attorneys are required to list the information to be redacted by page and line number, which will reduce the work and errors on the part of the court reporter.
- The redaction-related documents should be in the court record to ensure that the changes to the transcript are documented and are available both to the court in which the transcript was created and the appellate court (for potential orders regarding any delay).

- There is no obligation on the part of the clerk's office to perform any redaction. Instead, it rests on the attorneys to tell the court reporter where to redact, and on the court reporter to perform the redaction.
- A separate transcript will be prepared for voir dire and will be sealed upon filing. Contract reporters will be required to produce the voir dire transcript as a separate document and deliver it to the Clerk's Office in .pdf format for filing by court staff.

4. Filing Sealed Transcripts in Unsealed Cases

The new transcript policy **does not** apply to *sealed transcripts*. Transcripts that are sealed, such as the Transcript of Voir Dire, will get both the *special document access restriction* and the *sealed restriction*, and the transcript deadlines are not created.

5. Viewing Restricted Transcripts at the Public Terminal

When viewed at the public terminal in the Clerk's Office, transcripts that are restricted display the following header: **AVAILABLE AT THE PUBLIC TERMINAL FOR VIEWING ONLY**. The header does not display for unrestricted transcripts that are viewed at the public terminal.

6 The Transcript Events

6.1 Transcript

The transcript has been explained in detail in the previous section. Please note, however, that if an attorney purchases a transcript from the reporter, the reporter needs to provide that attorney with the transcript, either in paper, or in whatever other format they agree on. Once the transcript has been purchased, the 90-day restriction to the transcript will be lifted for that attorney. However, if the attorney chooses - at any time - to access the transcript from the link in CM/ECF, he/she will accrue PACER fees at the rate of .08 per page.

6.2 Notice of Filing of Official Transcript

As described briefly in the previous section, a Notice of Filing of Official Transcript will need to be prepared by the court reporter and e-filed in every case. Any attorney(s) that does not receive electronic notice will need to receive a copy of this document in the mail. This document will notify the attorney of the establishment of the deadline for submission of the redaction request, the deadline for the filing of the redacted transcript and the deadline for release of the transcript restrictions.

6.3 Transcript Redaction Request

If an attorney needs to request a redaction of the transcript, he/she will be required to file a document called a **Transcript Redaction Request**. *The attorney is also required to notify the court reporter as to the redaction request.* The Transcript Redaction Request, when e-filed, will have its access set to only court users and the attorneys in the case. It will not be accessible to the public.

6.4 Transcript - Redacted

After receiving the redaction request from the attorney, the reporter is required to make the necessary redactions (using the proper formatting procedures) and then e-file the redacted transcript. This event works much the same as the original transcript event. Please note that if an attorney has purchased a copy of the original transcript, he/she will also have unrestricted access to the redacted transcript. However, the reverse is not true. If the attorney did NOT pay for the original transcripts, then later purchases the redacted transcript, they do not get unrestricted access to the original transcript.

6.5 Transcript of Voir Dire

Juror information is protected under the E-Government act. Therefore, a separate transcript will need to be prepared for the voir dire portion of a jury trial. Upon completion of this separate transcript, the court reporter will need to deliver the transcript to the Clerk's Office - in .pdf format - for filing by court staff. When court staff files the transcript of voir dire, it will be automatically sealed. The transcript of voir dire can be purchased by the attorney, but it will never be made available or accessible through CM/ECF.

6.6 Notice of Release of Transcript Restriction

The Notice of Release of Transcript Restriction event will need to be filed by all *contract reporters* any time that an attorney has purchased a copy of a transcript. The docketing of this event is different from other events in that it is not necessary to attach a document to this docket entry. The docket entry will send an email to Clerk's Office staff that will give the attorney's name and authorize Clerk's Office staff to lift the restriction to the transcript for that particular attorney. This is considered a private docket entry and no electronic notice will be sent to counsel in the case. The court reporter is not required to do anything more than make the docket entry.

7. E-Filing Transcript Documents

- 7.1 Log into the CM/ECF system using the login and password that you were given. Please note that the system is case-sensitive.



The image shows a web-based authentication form. It has a title 'Authentication' in a grey box. Below the title, there are two input fields: 'Login:' and 'Password:'. At the bottom of the form, there are two buttons: 'Login' and 'Reset'.

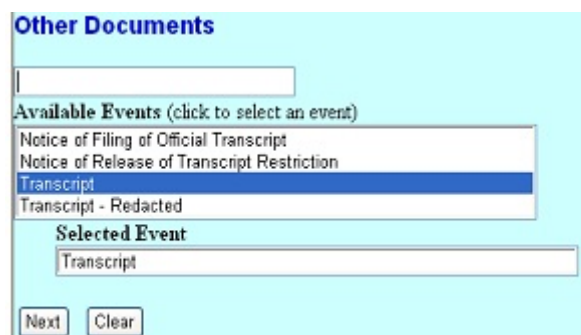
- 7.2 To file a transcript document in a civil case, click on [Civil](#) in the blue menu bar. If the transcript involves a criminal case, click on [Criminal](#) in the blue menu bar.



- 7.3 Under Other Filings, click [Other Documents](#)



- 7.4 The transcript documents are listed in alphabetical order.



The image shows a web-based form titled 'Other Documents'. It has a search bar at the top. Below the search bar, there is a section titled 'Available Events (click to select an event)'. This section contains a list of events: 'Notice of Filing of Official Transcript', 'Notice of Release of Transcript Restriction', 'Transcript', and 'Transcript - Redacted'. 'Transcript' is highlighted with a blue background. Below this list, there is a section titled 'Selected Event' which contains a text box with the word 'Transcript' inside. At the bottom of the form, there are two buttons: 'Next' and 'Clear'.

Before filing your document electronically, make sure it has been “signed” using the /s/. Next, click on the transcript event that you want to use. (For this example, we will use “Transcript”). It will appear in the “Selected Event” box. (See example above). Click “Next” to continue.

Your next screen will prompt you for the case number.

Other Documents

Civil Case Number

99-12345, 1:99-cv-12345, 1-99-cv-12345, 99cv12345, or 1:99cv12345

Next Clear

Enter it where indicated and click on “Find This Case”. Then click on “Next”:

Other Documents

Civil Case Number

07-4001 Find This Case

Next Clear

If the case is a multiple-defendant criminal case, you will be prompted to select the defendant for whom the transcript is being filed. In some cases, it may be more than one defendant.

Other Documents

Criminal Case Number

4:06-cr-40001 Hide Case List

Select a case:

☒ 4:06-cr-40001-KES USA v. Johnson

☐ 4:06-cr-40001-KES-1 Dave Johnson

☐ 4:06-cr-40001-KES-2 John Smith

Next Clear

The system will display the following reminder message. Click on “Next” to continue.

MAKE SURE THAT THE TRANSCRIPT HAS BEEN SIGNED USING THE /s/ BEFORE CONTINUING!

Your next screen will prompt you for the date and allow you to attach your transcript:

Other Documents
[4:07-cv-04001-LLP Margulies v. Peterson](#)

Date document filed (mandatory)
4/29/2009 Calendar

Select the pdf document (for example: C:\199cv501-21.pdf).
Filename
S:\smarg\training documents\Transcript.p Browse...

Attachments to Document: ☒ No ☐ Yes

Next Clear

The Date document filed should already be populated with the current date.
NOTE: THIS MUST BE TODAY’S DATE - DO NOT CHANGE THE DATE!

The next box is where you attach your transcript or other transcript document. Again PLEASE NOTE that the document must be in .pdf format. The system will not allow you to attach a document if it is not in .pdf format. Click the Browse button to find your document and double click on the file name. The box will be populated with the transcript document. Verify that it is the correct transcript document and then click on “Next”:

The next screen will prompt you to select the proceeding/hearing for which the transcript is being filed. Click the box in front of the correct proceeding to select that hearing then click “Next”:

Other Documents
[4:07-cv-04001-LLP Margulies v. Peterson](#)

Select Proceeding to which this relates.

Select the appropriate event(s) to which your event relates:

☐ 07/19/2008 [23](#) Motion Hearing held on 7/19/2008 re [16](#) MOTION for Partial Summary Judgment on count 2 filed by Debra Peterson before Chief Judge Lawrence L. Piersol: (Court Reporter Kerry Lange) (NAK) (Entered: 04/29/2009)

☐ 12/20/2008 [24](#) Evidentiary Hearing held on 12/20/2008 before Chief Judge Lawrence L. Piersol: (Court Reporter Kerry Lange) (NAK) (Entered: 04/29/2009)

☐ 04/01/2009 [25](#) Court Trial held on 4/1/2009 before Chief Judge Lawrence L. Piersol: (Court Reporter Kerry Lange) (NAK) (Entered: 04/29/2009)

Next Clear

Your next screen will prompt you to enter information regarding the hearing or trial, specifically the date the hearing/trial was held and the name of the Judge. Enter the information and click “Next”:

Other Documents	
<u>4:07-cv-04001-LLP Margulies v. Peterson</u>	
For Dates of	<input type="text" value="04/01/2009"/>
Hearing Judge	<input type="text" value="Piersol"/>
<input type="button" value="Next"/>	<input type="button" value="Clear"/>

The system will now display an instructional message along with a prompt regarding where the proceedings were held. This information **MUST** be entered and will almost always be “Y”es. Enter “Y” and then click Enter:

Other Documents	
<u>4:07-cv-04001-LLP Margulies v. Peterson</u>	
You must use Y for yes or N for no in the following prompt:	
Were the proceedings held in this court? Y/N	<input type="text" value="Y"/>
<input type="button" value="Next"/>	<input type="button" value="Clear"/>

If you are docketing the transcript event, the deadlines created by the filing of the transcript are shown on the next screen. Click on “Next”:

Other Documents	
<u>4:07-cv-04001-LLP Margulies v. Peterson</u>	
<i>Transcript</i>	
Redaction Request Deadline	
Date	05/20/2009
Redacted Transcript Deadline	
Date	05/30/2009
Release of Transcript Restriction Deadline	
Date	07/28/2009
<input type="button" value="Next"/>	<input type="button" value="Clear"/>

The next screen prompts you for information regarding the transcript. Enter the answers to the prompts and then click on “Next”. Note, if there is no Tape Number, it can be left blank.

Other Documents
[4:07-cv-04001-LLP Margulies v. Peterson](#)

Tape Number

Court Reporter/Transcriber

Court Reporter/Transcriber Phone

The next screen shows that the docket entry has now been created:

Other Documents
[4:07-cv-04001-LLP Margulies v. Peterson](#)

Docket Text: Final Text

TRANSCRIPT of Proceedings re [25] Court Trial Held held on 4/1/09 before Judge Piersol. Court Reporter/Transcriber: Kerry Lange, Telephone number 605-555-5555. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/20/2009. Redacted Transcript Deadline set for 5/30/2009. Release of Transcript Restriction set for 7/28/2009. (Lange, Kerry)

Attention!! Pressing the NEXT button on this screen commits this transaction. You will have no further opportunity to modify this transaction if you continue.

Source Document Path (for confirmation only):
S:\smarg\training documents\Transcript.pdf pages: 1

Please notice the **Attention!!** message. Before clicking the final submit (“Next”) button, if you notice errors in your docket entry, you can click the back button several times to go back to the screen where the error occurred. Or, if you prefer, you can just start over by going back and clicking “**Civil**” or “**Criminal**” on the blue menu bar. If everything is correct, click “Next” to continue.

A copy of the Notice of Electronic Filing will appear on your screen. (See below)

Other Documents
[4:07-cv-04001-LLP Margulies v. Peterson](#)

U.S. District Court
District of South Dakota

Notice of Electronic Filing

The following transaction was entered on 4/29/2009 at 10:18 AM CST and filed on 4/29/2009
Case Name: Margulies v. Peterson
Case Number: [4:07-cv-4001](#)
Filer:
Document Number: [26](#)

Docket Text:
TRANSCRIPT of Proceedings re [25] Court Trial Held held on 4/1/09 before Judge Piersol. Court Reporter/Transcriber: Kerry Lange, Telephone number 605-555-5555. Transcript may be viewed at the Clerk's Office public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/20/2009. Redacted Transcript Deadline set for 5/30/2009. Release of Transcript Restriction set for 7/28/2009. (Lange, Kerry)

4:07-cv-4001 Notice has been electronically mailed to:
Michael Luce drickoh@alliancecom.net
Training Attorney1 Nancy_Kohler@sdd.uscourts.gov

4:07-cv-4001 This document must be sent in hard copy to:
Train Attorney2
123 S. Phillips
Sioux Falls, SD 57110

The following document(s) are associated with this transaction:
Document description: Main Document
Original filename: n/a
Electronic document Stamp:

As you can see from this example, the Notice of Electronic Filing (NEF) has a link to the docket number, and a link to the document. It gives the text of the docket entry and then lists the names and email addresses for the attorneys that will be receiving electronic notice, as well as those that will need to be notified in hard copy as to the filing of the transcript document. For those attorneys that do not receive electronic notice of the filing of the transcript, you will need to prepare and mail to that attorney the document entitled **Notice of Filing of Official Transcript**. ***This document must also be e-filed in the case.***

After you have completed your docket entry, it might be advisable to print or save a copy of the NEF for your records.

8. Logging Off

After you have finished your docketing session, remember to click “Logout” on the blue menu bar.

